IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

Bail Appl..No. 4939 of 2007()

OR.1/2007 OF THATTEKKADU BIRD SANCTUARY FOREST RANGE

: PETITIONER/ACCUSED

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1. JOY, S/O.ABRAHAM, PELLITHAZHAM HOUSE, OVUNKAL KARA, KEERAMPARA VILLAGE, KOTHAMANGALAM TALUK.

2. MATHEW @ MATHAN, S/O.KURIAKO, PALAPPILLI HOUSE, KEERAMPARA VILLAGE, KOTHAMANGALAM TALUK.

BY ADV. SRI.GEORGE SEBASTIAN
SRI.BYJU KURIAKOSE

RESPONDENTS: COMPLAINANT

ASSISTANT WILD LIFE WARDEN, THATTEKKADU BIRD SANCTUARY.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4939 of 2007

Dated this the 14th day of August, 2007

ORDER

Application for anticipatory bail. The petitioners face allegations under Section 27 of the Kerala Forest Act. The crux of the allegation is that the petitioners trespassed into the forest and attempted to cut and remove teak tree which was lying fallen there. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Anticipatory bail may be granted to the petitioners, it is prayed.

3. The learned Public Prosecutor opposes the application. The materials collected convincingly point to the complicity of the petitioners. At any rate, the petitioners have to be interrogated. There are no circumstances justifying invocation of the extraordinary equitable discretion under Section 438 Cr.P.C, submits the learned Public Prosecutor .

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor . This is a fit case where the petitioners must surrender before the Investigating Officer

or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-